

ESTTA Tracking number: **ESTTA333921**

Filing date: **02/24/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Virgin Enterprises Limited
Granted to Date of previous extension	02/24/2010
Address	50 Brook Green The School House London, W67RR UNITED KINGDOM
Attorney information	Victoria J. B. Doyle Fried, Frank, Harris, Shriver & Jacobson LLP One New York Plaza New York, NY 10004-1980 UNITED STATES teas@friedfrank.com, doylevi@ffhsj.com

Applicant Information

Application No	77730895	Publication date	10/27/2009
Opposition Filing Date	02/24/2010	Opposition Period Ends	02/24/2010
Applicant	Battle Born Gaming, Inc. Suite 9, Ansuya Estate, Revolution Ave. c/o Fidelity Corporate Services Victoria, SEYCHELLES		

Goods/Services Affected by Opposition


Class 032. All goods and services in the class are opposed, namely: Powders used in the preparation of isotonic sports drinks and sports beverages; Sports drinks
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	1039574	Application Date	09/09/1974
Registration Date	05/18/1976	Foreign Priority Date	NONE
Word Mark	VIRGIN		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1970/01/00 First Use In Commerce: 1970/01/00 SOUND RECORDS IN THE FORM OF DISCS AND TAPES AND CASSETTES FOR USE THEREWITH

U.S. Registration No.	1413664	Application Date	11/29/1984
Registration Date	10/14/1986	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1984/06/22 First Use In Commerce: 1984/06/22 AIR TRAVEL SERVICES		

U.S. Registration No.	1469618	Application Date	03/03/1986
Registration Date	12/22/1987	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: PRE-RECORDED AUDIO AND/OR VIDEO TAPES, CASSETTES AND CARTRIDGES; PRE-RECORDED AUDIO AND VIDEO DISCS, PHONOGRAPH RECORDS [; PHOTOGRAPHIC AND CINEMATOGRAPHIC FILMS]		

U.S. Registration No.	1517801	Application Date	03/03/1986
Registration Date	12/27/1988	Foreign Priority Date	NONE
Word Mark	VIRGIN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: [PRE-RECORDED AUDIO AND/OR VIDEO TAPES, CASSETTES AND CARTRIDGES;] PRE-RECORDED AUDIO AND VIDEO DISCS, PHONOGRAPH RECORDS; PHOTOGRAPHIC AND CINEMATOGRAPHIC FILMS

U.S. Registration No.	1591952	Application Date	03/18/1988
Registration Date	04/17/1990	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: PRINTED SHEET MUSIC; [HOLOGRAPHS; MOUNTED PHOTOGRAPHS; POSTERS,] FICTIONAL AND NON-FICTIONAL BOOKS, [GEOGRAPHY AND HISTORY BOOKS, TEACHING BOOKS, DRAWING BOOKS, PRINTING BOOKS, WRITING BOOKS, SCHOOL TEXT BOOKS, PAINTING BOOKS, NOTE BOOKS, REFERENCE BOOKS, GARDENING BOOKS, MAINTENANCE BOOKS, LANGUAGE BOOKS, ADDRESS BOOKS, TELEPHONE BOOKS, COOK BOOKS,] BIOGRAPHY AND AUTOBIOGRAPHY BOOKS, [COMIC BOOKS,] PERIODICALS, NAMELY, [PAMPHLETS, BROCHURES, NEWSLETTERS, JOURNALS,] PAPERBACK BOOKS [AND MAGAZINES,] ALL DEALING WITH MUSIC, FILMS AND ENTERTAINMENT; [DIARIES, PERSONAL ORGANIZERS, BOXES OF CARDBOARD, PAPER FACE TOWELS, FILTER PAPER, PAPER POCKET HANDKERCHIEFS, HYGENIC PAPER, PAPER BABIES' DIAPERS, BOXES OF PAPER,] PAPER FOR PACKAGING, PAPER CASES; WRITING INSTRUMENTS, NAMELY, PENS, PENCILS, BALL POINT PENS, [FOUNTAIN PENS, FELT TIP PENS, AND CRAYONS;] STATIONERY AND OFFICE SUPPLIES, NAMELY, WRITING		


	<p>AND NOTE PAPER, [ENVELOPES, GREETING CARDS, POSTCARDS, WRITING INK, UNGRADUATED RULERS, ERASERS, BLANK BOOKS, LEDGERS, CARDS, INDEX CARDS, ADHESIVE GLUES AND ADHESIVE TAPES FOR STATIONERY AND HOUSEHOLD PURPOSES, ADHESIVE TAPE DISPENSERS, LOOSE-LEAF BINDERS, BLOTTERS, BLOTTING PAPER, DESK ORGANIZER BOXES OR CONTAINERS FOR PENS, PENCILS AND PAPER CLIPS, CALENDARS, CARBON PAPER, CHARTS, DIAGRAMS, DOCUMENT FILES, DRAWING PADS, DRAWING PINS, ELASTIC BANDS FOR OFFICES, STATIONERY FOLDERS, GUMMED LABELS, PAPER KNIVES, PAPER WEIGHTS, PENCIL HOLDERS, PENCIL SHARPENERS, PENCIL SHARPENING MACHINES, ADDRESS STAMPS, POSTCARDS, SEALING WAX, SEALING WAXERS, SEALING STAMPS, SEALS, SIGNS OF PAPER OR CARDBOARD, STAPLES, STAPLING PRESSERS, STENCIL CASES, STENCIL PLATES, STENCILS, TAGS FOR INDEX CARDS, TRAYS FOR SORTING AND COUNTING; PAPER TABLEWARE, NAMELY, TABLE MATS, COASTERS, DECANTER MATS, DISH MATS, TABLE NAPKINS, AND TABLE CLOTHS;] PLAYING CARDS</p> <p>Class 025. First use:</p> <p>[ARTICLES OF UNDERCLOTHING, NAMELY, VESTS, UNDERPANTS, PANTS, BRASSIERES, CORSETS, CORSELETTES, PETTICOATS, CAMISOLES, KNICKERS, TEDDIES, FRENCH KNICKERS, TIGHTS, STOCKINGS, PANTY HOSE, GARTERS, SUSPENDERS BELTS, SLIPS, SOCKS, BODICES, BASQUES;] ARTICLES OF OUTER CLOTHING, NAMELY, [SUITS, DRESSES, SKIRTS,] SHIRTS, T-SHIRTS, SWEAT SHIRTS, [BLOUSES, TROUSERS, OVERALLS, LEATHER TROUSERS, JEANS, SLACKS,] JACKETS, [RAINCOATS, WAIST COATS, COATS, SWEATERS, CARDIGANS, PULLOVERS, SOCKS, LEG WARMERS, LEGGINGS, DRESSING GOWNS, BATHROBES, JUMPERS, TIES, NECKWEAR,] HATS, CLOTHING CAPS, [GLOVES, MITTENS, SCARVES, APRONS,] CLOTHING BELTS [; SLEEPWEAR; FOOTWEAR; ARTICLES OF SPORTS CLOTHING, NAMELY, SHORTS, TRACK SUITS, SWIMWEAR, SWIMMING TRUNKS, WET SUITS, RAINWEAR, LEOTARDS]</p>
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U.S. Registration No.	1597386	Application Date	03/18/1988
Registration Date	05/22/1990	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use:</p> <p>PRINTED SHEET MUSIC; [HOLOGRAPHS;] MOUNTED PHOTOGRAPHS; POSTERS, FICTIONAL AND NON-FICTIONAL BOOKS, [GEOGRAPHY AND HISTORY BOOKS, TEACHING BOOKS, DRAWING BOOKS, PRINTING BOOKS, WRITING BOOKS, SCHOOL TEXT BOOKS, PAINTING BOOKS, NOTE BOOKS, REFERENCE BOOKS, GARDENING BOOKS, MAINTENANCE BOOKS, LANGUAGE BOOKS, ADDRESS BOOKS, TELEPHONE BOOKS, COOK BOOKS,] BIOGRAPHY AND AUTOBIOGRAPHY BOOKS, [COMIC BOOKS,] PERIODICALS, NAMELY, [PAMPHLETS, BROCHURES, NEWSLETTERS,] JOURNALS, PAPERBACK BOOKS [AND MAGAZINES,] ALL DEALING WITH MUSIC, FILMS AND ENTERTAINMENT; [DIARIES, PERSONAL ORGANIZERS, BOXES OF CARDBOARD, PAPER FACE TOWELS, FILTER PAPER, PAPER POCKET HANDKERCHIEFS, HYGIENIC PAPER, PAPER BABIES' DIAPERS, BOXES OF PAPER,] PAPER FOR PACKAGING, PAPER CASES; STATIONERY AND OFFICE SUPPLIES,[NAMELY, WRITING AND NOTE PAPER, ENVELOPES, GREETING CARDS,</p>		

	<p>POSTCARDS, WRITING INK, BLANK BOOKS, LEDGERS, CARDS, INDEX CARDS, ADHESIVE GLUES AND ADHESIVE TAPES FOR STATIONERY AND HOUSEHOLD PURPOSES, BLOTTERS, BLOTTING PAPER, CALENDARS, CARBON PAPER, CHARTS, DIAGRAMS, DOCUMENTS FILES, DRAWING PADS, STATIONERY FOLDERS, GUMMED LABELS, POSTCARDS, SIGNS OF PAPER OR CARDBOARD, TAGS FOR INDEX CARDS, PAPER TABLEWARE, NAMELY, TABLE MATS, COASTERS, DECANTER MATS, DISH MATS, TABLE NAPKINS, AND TABLE CLOTHS,] PLAYING CARDS</p> <p>Class 025. First use:</p> <p>[ARTICLES OF UNDERCLOTHING, NAMELY, VESTS, UNDERPANTS, PANTS, BRASSIERES, CORSETS, CORSELETTES, PETTICOATS, CAMISOLES, KNICKERS, TEDDIES, FRENCH KNICKERS, TIGHTS, STOCKINGS, PANTY HOSE, GARTERS, SUSPENDERS] BELTS, [SLIPS, SOCKS, BODICES, BASQUES;] ARTICLES OF OUTER CLOTHING, NAMELY, [SUITS, DRESSES, SKIRTS,] SHIRTS, T-SHIRTS, SWEAT SHIRTS, [BLOUSES, TROUSERS, OVERALLS, LEATHER TROUSERS, JEANS, SLACKS,] JACKETS, [RAINCOATS, WAIST COATS, COATS, SWEATERS, CARDIGANS, PULLOVERS, SOCKS, LEG WARMERS, LEGGINGS, DRESSING GOWNS, BATHROBES, JUMPERS, TIES, NECKWEAR,] HATS, CLOTHING CAPS, [GLOVES, MITTENS, SCARVES, APRONS,] CLOTHING BELTS; [SLEEPWEAR; FOOTWEAR; ARTICLES OF SPORTS CLOTHING, NAMELY, SHORTS, TRACK SUITS, SWIMWEAR, SWIMMING TRUNKS, WET SUITS, RAINWEAR, LEOTARDS]</p>
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U.S. Registration No.	1851817	Application Date	05/01/1991
Registration Date	08/30/1994	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark	<p style="text-align: center;">VIRGIN</p>		
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1984/06/00 First Use In Commerce: 1984/06/00 [[direct mail advertising for others;] dissemination of advertising materials for other; preparing advertising, promotions, and public relations materials for others; [management of promotional and incentive plans and services for others;] business organization promotional consulting for others; demonstration of the goods and services of others and the promotion thereof; promoting and advertising the goods and services of others by [aircraft,] airships and air balloons; outdoor advertising such as by billboards; and distribution of advertising, promotional materials and sample materials of others]</p> <p>Class 039. First use: First Use: 1984/06/00 First Use In Commerce: 1984/06/00 transportation of goods and passengers by road, [rail,] air [and sea;] freight transportation services; [tourist agency services;] travel agency services; [arranging travel tours; and transportation reservation services]</p> <p>Class 042. First use: First Use: 1992/05/00 First Use In Commerce: 1992/05/00 [clubs, nightclubs;] bars; [hotels; resorts; hotel reservation services; hotel and</p>		

	resort management for others; carry-out restaurant and restaurant services; catering; computer programming for others; computer software design services for others; artwork and graphic design services for others;] and retail store services in the fields of [cosmetics and laundry preparations, metal hardware,] cameras, records, audio and video tapes, [audio and video recorders,] computers and electronic apparatus, [jewelry, clocks] and watches, [musical instruments, stationery,] sheet music, books and photography, handbags, purses, luggage and leather goods, clothing, [lace, embroidery, gifts and sewing materials, toys,] games, video game machines and video game cartridges, [processed foods, jellies and jams, coffee, tea, bakery items and candy, beer, ale, mineral and aerated waters and other non-alcoholic drinks, wines, spirits and liqueurs, and tobacco and smokers' articles]
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U.S. Registration No.	1852776	Application Date	05/09/1991
Registration Date	09/06/1994	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1984/06/00 First Use In Commerce: 1984/06/00 [direct mail advertising for others;] dissemination of advertising materials for others; preparing advertising, promotions, and public relations materials for others; [management of promotional and incentive plans and services for others;] business organization promotional consulting for others; demonstration of the goods and services of others and promotion thereof; promoting and advertising the goods and services of others by [aircraft,] airships and air balloons; outdoor advertising such as by billboards; and distribution of advertising, promotional materials and sample materials of others]</p> <p>Class 039. First use: First Use: 1984/06/00 First Use In Commerce: 1984/06/00 transportation of goods and passengers by road, [rail,] air [and sea;] freight transportation services; [tourist agency services; arranging travel tours; and, transportation reservation services]</p> <p>Class 042. First use: First Use: 1992/05/00 First Use In Commerce: 1992/05/00 [clubs, nightclubs;] bars; [hotels; resorts; hotel reservation services; hotel and resort management for others; carry-out restaurant and restaurant services; catering;] rental of food service equipment; namely, vending machines; [computer programming for others; computer software design services for others; artwork and graphic design services for others;] portrait and aerial photography; typesetting and printing services; and retail store services in the fields of [cosmetics and laundry preparations; metal hardware;] cameras, records, audio and video tapes, [audio and video recorders,] computers and electronic apparatus; [jewelry, clocks] and watches; [musical instruments; stationery,] sheet music, books and photography; handbags, purses, luggage and leather</p>		

	goods; clothing; [lace, embroidery, gifts and sewing materials; toys,] games, video game machines and video game cartridges; [processed foods, jellies and jams; coffee, tea, bakery items and candy; beer, ale, mineral and aerated waters and other nonalcoholic drinks; wines, spirits and liqueurs; and, tobacco and smokers articles]
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U.S. Registration No.	1863353	Application Date	05/19/1992
Registration Date	11/15/1994	Foreign Priority Date	NONE
Word Mark	VIRGIN MEGASTORE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1979/00/00 First Use In Commerce: 1992/12/04 retail department store services		


U.S. Registration No.	2151589	Application Date	01/25/1995
Registration Date	04/21/1998	Foreign Priority Date	NONE
Word Mark	VIRGIN VODKA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1986/01/24 First Use In Commerce: 1986/01/24 vodka		

U.S. Registration No.	2237092	Application Date	06/10/1996
Registration Date	04/06/1999	Foreign Priority Date	NONE
Word Mark	VIRGIN VACATIONS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1994/11/01 First Use In Commerce: 1994/11/01 ARRANGING THE TRANSPORT OF PASSENGERS BY AIR AND ROAD, ARRANGING AND CONDUCTING TRAVEL TOURS, TRAVEL AGENCY SERVICES, NAMELY, MAKING RESERVATIONS AND BOOKINGS FOR TRANSPORTATION, AND TRANSPORTATION RESERVATION SERVICES Class 042. First use: First Use: 1994/11/01 First Use In Commerce: 1994/11/01 RESORT HOTEL AND HOTEL RESERVATION; TRAVEL AGENCY SERVICES, NAMELY, MAKING RESERVATIONS AND BOOKINGS FOR TEMPORARY LODGING		

U.S. Registration No.	2586162	Application Date	10/03/1997
Registration Date	06/25/2002	Foreign Priority Date	NONE
Word Mark	VIRGIN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 articles of luggage, namely, suitcases; bags; namely, back packs, rucksacks, school bags, school satchels, travelling bags, sports bags, all purpose sports bags for campers and climbers, textile shopping bags; wallets; umbrellas and parasols

U.S. Registration No.	2600080	Application Date	10/03/1994
Registration Date	07/30/2002	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1994/10/09 First Use In Commerce: 1994/10/09 non-alcoholic beverages, namely, soft drinks		

U.S. Registration No.	2622510	Application Date	01/18/1996
Registration Date	09/24/2002	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: UNDERWRITING LIFE, HEALTH AND GENERAL INSURANCE; FUNDS INVESTMENT; INVESTMENT OF FUNDS FOR OTHERS; OPEN AND CLOSE-ENDED FUNDS INVESTMENT; FINANCIAL ANALYSIS AND CONSULTATION		

	IN THE FIELD OF SECURITIES, PERSONAL EQUITY AND TAX ADVANTAGED SAVINGS		
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U.S. Registration No.	2625455	Application Date	12/17/1998
Registration Date	09/24/2002	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1997/12/00 First Use In Commerce: 1997/12/00 PROVIDING AN ON-LINE SHOPPING MALL VIA A GLOBAL COMPUTER NETWORK; PROVIDING BUSINESS INFORMATION VIA A GLOBAL COMPUTER NETWORK</p> <p>Class 038. First use: First Use: 1999/11/11 First Use In Commerce: 2000/03/21 COMPUTERIZED COMMUNICATION SERVICES, NAMELY, ELECTRONIC MAIL SERVICES, AND PROVIDING NETWORKS FOR THE PURPOSE OF TRANSMISSION AND RECEPTION OF ELECTRONIC MAIL, COMPUTER GENERATED MUSIC, NEWS AND OTHER DATA AND INFORMATION; AND BROADCASTING SERVICES BY RADIO AND OVER A GLOBAL COMPUTER NETWORK OF A WIDE VARIETY OF PROGRAMS, NAMELY, CURRENT EVENTS, ECONOMICS, POLITICS, SPORTS, ENTERTAINMENT, THE ARTS AND BUSINESS</p>		

U.S. Registration No.	2639079	Application Date	08/30/2001
Registration Date	10/22/2002	Foreign Priority Date	NONE
Word Mark	VIRGIN HOLIDAYS		
Design Mark	VIRGIN HOLIDAYS		
Description of Mark	NONE		
Goods/Services	<p>Class 039. First use: First Use: 1985/11/00 First Use In Commerce: 1985/11/00 TRANSPORTATION OF PASSENGERS AND GOODS BY ROAD, RAIL AND AIR; ARRANGING OF PACKAGE HOLIDAYS; ARRANGING AND ORGANIZING TOURS; ARRANGING VISITS TO PLACES OF INTEREST; TOURIST OFFICE SERVICES; TRAVEL AGENCY SERVICES, NAMELY, MAKING RESERVATIONS AND BOOKINGS FOR TRANSPORTATION; TRANSPORTATION RESERVATION SERVICES</p> <p>Class 043. First use: First Use: 1985/11/00 First Use In Commerce: 1985/11/00 TRAVEL AGENCY SERVICES, NAMELY, MAKING RESERVATIONS AND BOOKINGS FOR TEMPORARY LODGING</p>		

U.S. Registration No.	2643644	Application Date	09/08/1997
Registration Date	10/29/2002	Foreign Priority Date	NONE
Word Mark	VIRGIN VIE		

Design Mark	
Description of Mark	The mark consists of the designation MAQ!LIC with a stylized I.
Goods/Services	Class 003. First use: First Use: 1997/10/00 First Use In Commerce: 1998/00/00 [Perfumes; eau-de-cologne;] non-medicated toilet preparations, namely, lotions and moisturizers; non-medicated preparations for the care of the skin, hands, scalp and body, namely, moisturizers, lotions, creams and gels; non-medicated skin cleansing preparations,namely, lotions, creams and gels; creams and lotions for the skin [; nail varnishes]

U.S. Registration No.	2675758	Application Date	10/03/1997
Registration Date	01/21/2003	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: articles of luggage, namely, garment bags; trunks; bags, namely, beach bags, hunters' game bags, handbags; mesh shopping bags and leather or leather imitation shopping bags, sling bags for carrying infants; briefcases; purses; walking sticks Class 025. First use: gloves		

U.S. Registration No.	2689097	Application Date	08/10/2000
Registration Date	02/18/2003	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			


Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 1999/11/11 First Use In Commerce: 2002/06/23 MOBILE TELEPHONES; TELEPHONES; MODEMS; BATTERIES; BATTERY CHARGERS; CIGARETTE LIGHTER ADAPTERS; DASHBOARD MOUNTS; [HAND-FREE] * HANDS-FREE * HEADSETS; CARRYING CASES; BELT CLIPS</p> <p>Class 038. First use: First Use: 1999/11/11 First Use In Commerce: 1999/11/18 TELECOMMUNICATIONS SERVICES, NAMELY, TRANSMISSION OF VOICE, DATA, IMAGES, AUDIO, VIDEO, AND INFORMATION VIA TELEPHONE OR THE INTERNET; PERSONAL COMMUNICATIONS SERVICES; PAGER SERVICES; ELECTRONIC MAIL SERVICES; TRANSMISSION OR BROADCAST OF NEWS AND INFORMATION FOR OTHERS VIA TELEPHONE, INCLUDING THE INTERNET</p>

U.S. Registration No.	2689098	Application Date	08/10/2000
Registration Date	02/18/2003	Foreign Priority Date	NONE

Word Mark	VIRGIN
Design Mark	

Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 1999/11/11 First Use In Commerce: 2002/06/23 MOBILE TELEPHONES; TELEPHONES; MODEMS; BATTERIES; BATTERY CHARGERS; CIGARETTE LIGHTER ADAPTERS; DASHBOARD MOUNTS; HANDS-FREE HEADSETS; CARRYING CASES; BELT CLIPS</p> <p>Class 038. First use: First Use: 1999/11/11 First Use In Commerce: 1999/11/18 TELECOMMUNICATIONS SERVICES, NAMELY, TRANSMISSION OF VOICE, DATA, IMAGES, AUDIO, VIDEO, AND INFORMATION VIA TELEPHONE OR THE INTERNET; PERSONAL COMMUNICATIONS SERVICES; PAGER SERVICES; ELECTRONIC MAIL SERVICES; TRANSMISSION OR BROADCAST OF NEWS AND INFORMATION FOR OTHERS VIA TELEPHONE, INCLUDING THE INTERNET</p>

U.S. Registration No.	2709578	Application Date	10/03/1994
Registration Date	04/22/2003	Foreign Priority Date	NONE
Word Mark	VIRGIN		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 1980/00/00 First Use In Commerce: 1987/00/00 sound records of music in the form of discs [and tapes and cassettes; pre-recorded audio or video tapes, cassettes and cartridges featuring music;] pre-recorded audio and video discs, phonograph records featuring music; [data processors and displays;] graphical interface to aid the delivery of interactive products and services by cable or wireless transmission; parts for the aforesaid goods; computer game software; [computer software for educational computer games, for calculators, for global computer network access and for music products; computer hardware]</p> <p>Class 032. First use: First Use: 1994/11/04 First Use In Commerce: 1998/04/00 water, namely, mineral waters, aerated waters and flavored waters; non-alcoholic beverages, namely, fruit flavored drinks</p> <p>Class 033. First use: First Use: 1995/01/04 First Use In Commerce: 1995/01/04 spirits, namely vodka</p>


U.S. Registration No.	2717644	Application Date	09/09/1997
Registration Date	05/20/2003	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1994/10/09 First Use In Commerce: 1994/10/09 non-alcoholic beverages, namely, soft drinks		

U.S. Registration No.	2770775	Application Date	08/16/2001
Registration Date	10/07/2003	Foreign Priority Date	NONE
Word Mark	VIRGIN MOBILE		

Design Mark	VIRGIN MOBILE
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 1999/11/11 First Use In Commerce: 2002/07/24 MOBILE TELEPHONES, TELEPHONES AND MODEMS, AND ACCESSORIES THEREFOR, NAMELY, BATTERIES; BATTERY CHARGERS; CIGARETTE LIGHTER ADAPTERS; HANDS-FREE HEADSETS; CARRYING CASES AND BELT CLIPS</p> <p>Class 035. First use: First Use: 1999/11/11 First Use In Commerce: 2002/07/24 PROVIDING DIRECTORY INFORMATION VIA TELEPHONE</p> <p>Class 038. First use: First Use: 1999/11/11 First Use In Commerce: 2002/07/24 TELECOMMUNICATIONS SERVICES, NAMELY, TRANSMISSION OF VOICE, DATA, IMAGES, AUDIO, VIDEO, AND INFORMATION VIA TELEPHONE OR THE INTERNET; PERSONAL COMMUNICATIONS SERVICES; PAGER SERVICES; ELECTRONIC MAIL SERVICES; TRANSMISSION OR BROADCAST OF NEWS AND INFORMATION FOR OTHERS VIA TELEPHONE, INCLUDING THE INTERNET</p>


U.S. Registration No.	2770776	Application Date	08/16/2001
Registration Date	10/07/2003	Foreign Priority Date	NONE
Word Mark	VIRGIN MOBILE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1999/11/11 First Use In Commerce: 2002/07/24 MOBILE TELEPHONES, TELEPHONES AND MODEMS, AND ACCESSORIES THEREFOR, NAMELY, BATTERIES; BATTERY CHARGERS; CIGARETTE LIGHTER ADAPTERS; HANDS-FREE HEADSETS; CARRYING CASES AND BELT CLIPS</p> <p>Class 035. First use: First Use: 1999/11/11 First Use In Commerce: 2002/07/24 PROVIDING DIRECTORY INFORMATION VIA TELEPHONE</p> <p>Class 038. First use: First Use: 1999/11/11 First Use In Commerce: 2002/07/24</p>		

	TELECOMMUNICATIONS SERVICES, NAMELY, TRANSMISSION OF VOICE, DATA, IMAGES, AUDIO, VIDEO, AND INFORMATION VIA TELEPHONE OR THE INTERNET; PERSONAL COMMUNICATIONS SERVICES; PAGER SERVICES; ELECTRONIC MAIL SERVICES; TRANSMISSION OR BROADCAST OF NEWS AND INFORMATION FOR OTHERS VIA TELEPHONE, INCLUDING THE INTERNET
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U.S. Registration No.	2798130	Application Date	10/03/1994
Registration Date	12/23/2003	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 2003/01/00 First Use In Commerce: 2003/01/00 playing cards, writing instruments, namely, pens, pencils and ball point pens</p> <p>Class 018. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 Luggage</p> <p>Class 025. First use: First Use: 1997/00/00 First Use In Commerce: 1997/00/00 Leisurewear, namely, fleece tops and shirts; articles of outer clothing, namely T-shirts, sweat shirts, jackets, hats, clothing caps</p> <p>Class 028. First use: First Use: 2003/01/00 First Use In Commerce: 2003/01/00 sporting articles, namely, golf tees</p> <p>Class 035. First use: First Use: 2003/01/00 First Use In Commerce: 2003/01/00 Preparing advertising, promotions, and public relations materials for others; demonstration of the goods of others and the promotion thereof; and distribution and dissemination of advertising, promotional materials and sample materials of others</p> <p>Class 038. First use: First Use: 1999/11/11 First Use In Commerce: 2002/07/24 Electronic transmission and display of information for business or domestic purposes from a computer stored data bank</p> <p>Class 042. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 Retail store services in the fields of records, audio and video tapes, computers and electronic apparatus and watches, books, luggage and leather goods, clothing, games, video game cartridges, and cafes</p>		


U.S. Registration No.	2808270	Application Date	03/05/2003
Registration Date	01/27/2004	Foreign Priority Date	NONE
Word Mark	VIRGIN ATLANTIC		

Design Mark	VIRGIN ATLANTIC
Description of Mark	NONE
Goods/Services	Class 039. First use: First Use: 1984/06/00 First Use In Commerce: 1984/06/00 TRANSPORTATION OF AND ARRANGING TRANSPORTATION OF GOODS AND PASSENGERS BY ROAD AND AIR; FREIGHT TRANSPORTATION SERVICES BY AIR; TRANSPORTATION OF HUMAN BEINGS BY MEANS OF LAND VEHICLES; CHAUFFEUR SERVICES; TRAVEL AGENCY SERVICES, NAMELY, MAKING RESERVATIONS AND BOOKINGS FOR TRANSPORTATION; ARRANGING AND/OR CONDUCTING TRAVEL TOURS; OPERATION OF AIRCRAFT FOR OTHERS


U.S. Registration No.	2818572	Application Date	09/08/1997
Registration Date	03/02/2004	Foreign Priority Date	03/12/1997
Word Mark	VIRGIN VIE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: Soaps; shampoos; toilet waters; essential oils for personal use; shaving preparations; after-shave lotions; shaving foams; non-medicated toilet preparations, namely, soaps, shampoos, conditioners, non-medicated bath salts and bath oils; anti-perspirants, deodorants for use on the person; depilatories; dentifrices; mouthwashes; cosmetics, namely, foundation creams and lotions, face powders, blusher, lipsticks, lip gloss, and eye make-up; suntanning and sunscreens; preparations; non-medicated preparations for the care of the skins hands, scalp and body, namely, toners, exfoliators, scrubs, soaps, nail care preparations namely, shampoos, conditioners, lotions, styling gels, mousse, oils, sprays, hair coloring and decolorant preparations; dyes for the hair and permanent waving and curling preparations; non-medicated skin cleansing preparations namely, cleansers, exfoliators, scrubs, soaps and toners; talcum powders; nail varnish removers; nail care preparations; artificial nails and adhesives therefor; glues, adhesives, acrylic, and silk and linen wraps for the repair of artificial nails; artificial eyelashes and adhesives therefor		


U.S. Registration No.	2870028	Application Date	08/16/2001
Registration Date	08/03/2004	Foreign Priority	NONE

		Date	
Word Mark	VIRGIN XTRAS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2002/06/22 First Use In Commerce: 2002/06/22 Mobile telephones; computer software downloadable from the Internet for transmission, reception and storage of voice, data, images, e-mail and digital information</p> <p>Class 038. First use: First Use: 2002/06/22 First Use In Commerce: 2002/06/22 Telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the internet</p>		


U.S. Registration No.	3009266	Application Date	04/25/2002
Registration Date	10/25/2005	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 1990/05/00 First Use In Commerce: 1990/05/00 Operation of leisure centers, namely, providing cosmetic and body care services		

U.S. Registration No.	3100295	Application Date	01/07/2005
Registration Date	06/06/2006	Foreign Priority Date	NONE
Word Mark	VIRGIN XL		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2004/09/28 First Use In Commerce: 2004/09/28 Mobile telephones; computer software downloadable from the Internet for transmission, reception and storage of voice, data, images, e-mail and digital information</p> <p>Class 038. First use: First Use: 2004/09/28 First Use In Commerce: 2004/09/28 Telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the internet</p>


U.S. Registration No.	3174388	Application Date	12/16/1999
Registration Date	11/21/2006	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 2004/10/31 First Use In Commerce: 2004/10/31 SOAPS; SHAMPOOS; NON-MEDICATED TOILET PREPARATIONS, NAMELY, SOAPS, SHAMPOOS, LOTIONS, AND MOISTURIZERS; ANTIPERSPIRANTS; DEODORANTS FOR USE ON THE PERSON; COSMETICS, NAMELY, FOUNDATION CREAMS AND LOTIONS; NON-MEDICATED PREPARATIONS FOR THE CARE OF THE SKIN, HANDS, SCALP AND BODY, NAMELY, MOISTURIZERS, LOTIONS, CREAMS, SOAPS, GELS; HAIR CARE PREPARATIONS, NAMELY, SHAMPOOS; NON-MEDICATED SKIN CLEANSING PREPARATIONS, NAMELY, CLEANSERS, LOTIONS, CREAMS, SOAPS; CREAMS AND LOTIONS FOR THE SKIN</p>		


U.S. Registration No.	3188282	Application Date	09/21/2004
Registration Date	12/19/2006	Foreign Priority Date	NONE

Word Mark	VIRGIN
Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1995/01/04 First Use In Commerce: 1995/01/04 Alcoholic beverages, namely, vodka and wine


U.S. Registration No.	3209714	Application Date	05/26/2005
Registration Date	02/13/2007	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/09/00 First Use In Commerce: 2005/09/00 Entertainment services, namely, providing online computer games		


U.S. Registration No.	3209716	Application Date	05/31/2005
Registration Date	02/13/2007	Foreign Priority Date	NONE
Word Mark	VIRGIN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2005/09/00 First Use In Commerce: 2005/09/00 Entertainment services, namely, providing online computer games


U.S. Registration No.	3230095	Application Date	04/25/2002
Registration Date	04/17/2007	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Organizing cultural activities and events; [operation of fitness centers;] operation of leisure centers, namely, providing library and Internet access facilities [; and providing health club services]		


U.S. Registration No.	3245593	Application Date	09/21/2004
Registration Date	05/22/2007	Foreign Priority Date	NONE
Word Mark	VIRGIN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1995/01/04 First Use In Commerce: 1995/01/04 Alcoholic beverages, namely, vodka and wine


U.S. Registration No.	3298420	Application Date	02/19/2002
Registration Date	09/25/2007	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2006/03/00 First Use In Commerce: 2006/04/00 business incentive services, namely, offering plans to employers including motivational schemes, gift certificates and other rewards for employees, management of incentive programs, events and schemes for others Class 036. First use: First Use: 2006/08/00 First Use In Commerce: 2006/08/00 debit card services		


U.S. Registration No.	3298421	Application Date	02/19/2002
Registration Date	09/25/2007	Foreign Priority Date	NONE
Word Mark	VIRGIN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2006/03/00 First Use In Commerce: 2006/04/00 Business incentive services, namely, offering plans to employers including motivational schemes, gift certificates and other rewards for employees, management of incentive programs, events and schemes for others Class 036. First use: First Use: 2006/08/00 First Use In Commerce: 2006/08/00 debit card services


U.S. Registration No.	3398247	Application Date	07/24/2007
Registration Date	03/18/2008	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2002/01/00 First Use In Commerce: 2002/01/00 banking services; loan services, namely, offering loans to others; credit card services; consumer financing; electronic funds transfer		


U.S. Registration No.	3398248	Application Date	07/24/2007
Registration Date	03/18/2008	Foreign Priority Date	NONE
Word Mark	VIRGIN		

Design Mark	
Description of Mark	The mark consists of the word "VIRGIN" in a stylized form.
Goods/Services	Class 036. First use: First Use: 2002/01/00 First Use In Commerce: 2002/01/00 banking services; loan services, namely, offering loans to others; credit card services; consumer financing; electronic funds transfer

U.S. Registration No.	3472228	Application Date	12/20/2004
Registration Date	07/22/2008	Foreign Priority Date	10/13/2004
Word Mark	VIRGIN UNITE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: Developing promotional campaigns for business; promoting public awareness of the need for businesses to have a positive impact on the communities and environment in which they operate and work together with the social sector to drive long term social change including making investments in emerging markets to accelerate positive social change through economic development; charitable services, namely, organizing and coordinating programs for the sick, people with health problems or issues, the homeless, drug users, those with disabilities, victims of abuse, those who are bereaved, children in need or at risk, those with sexual problems, and underprivileged communities, and organizing and conducting volunteer programs and community service projects; business management and administration services in connection with a charity</p> <p>Class 036. First use: Charitable fund raising; charitable financial services for those in need, namely, accepting and administering monetary charitable contributions; financial sponsorship of fund raising events and events designed to raise the profile of charitable and social issues</p> <p>Class 041. First use:</p>		

	Educational services, namely, conducting summits, conferences, lectures and seminars in the field of social change and charitable and social issues; training services in the field of social change and charitable and social issues; organizing community sporting and cultural events; educational services, namely, providing classes, lectures, seminars, workshops, and discussion groups in the fields of sickness, health problems, homelessness, drug use, disabilities, abuse, bereavement, children's needs, sexual problems, and poverty to young people, people with health problems or issues, the homeless, drug users, those with disabilities, victims of abuse, those who have been bereaved, children in need or at risk, those with sexual problems, and underprivileged communities; charitable services, namely, academic mentoring of children from underprivileged communities and young people
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U.S. Registration No.	3427241	Application Date	04/25/2002
Registration Date	05/13/2008	Foreign Priority Date	NONE
Word Mark	VIRGIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Organizing sporting and cultural activities and events; operation of leisure centers, namely, providing library facilities Class 044. First use: First Use: 1990/05/31 First Use In Commerce: 1990/05/31 Operation of leisure centers, namely, providing cosmetic and body care services		

U.S. Registration No.	3535624	Application Date	11/30/2005
Registration Date	11/18/2008	Foreign Priority Date	NONE
Word Mark	VIRGIN GALACTIC		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 039. First use: First Use: 2005/11/00 First Use In Commerce: 2005/11/00 Travel agency services, namely, making reservations and bookings for transportation, space travel agency services; namely, booking of transportation into space

U.S. Registration No.	3538900	Application Date	06/15/2006
Registration Date	11/25/2008	Foreign Priority Date	NONE

Word Mark	VIRGIN FESTIVAL
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2006/09/23 First Use In Commerce: 2006/09/23 Arranging and conducting live musical performances and music festivals


U.S. Registration No.	3538901	Application Date	06/15/2006
Registration Date	11/25/2008	Foreign Priority Date	NONE

Word Mark	VIRGIN
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2006/09/23 First Use In Commerce: 2006/09/23 Arranging and conducting live musical performances and music festivals

U.S. Registration No.	3541731	Application Date	04/07/2004
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Registration Date	12/02/2008	Foreign Priority Date	NONE
Word Mark	VIRGIN AMERICA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 039. First use: First Use: 2007/08/08 First Use In Commerce: 2007/08/08 Air transportation; freight transportation services by means of air, ship, truck, and rail; airport passenger and baggage check-in services; airport services, namely, ticketing and boarding services; travel services, namely, booking seating arrangements for airline passengers; air transportation services featuring frequent flyer miles as a bonus program for frequent air travelers; providing flight arrival and departure information; and transportation reservation services</p> <p>Class 041. First use: First Use: 2007/08/08 First Use In Commerce: 2007/08/08 onboard in-flight entertainment services, namely, distributing movies, TV programs, and audio programs, and providing temporary use of video games, software and personal monitors for viewing the same</p>		

U.S. Registration No.	3707308	Application Date	02/09/2007
Registration Date	11/10/2009	Foreign Priority Date	NONE
Word Mark	VIRGIN VIE AT HOME		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use:</p> <p>Perfumes, cosmetics, make up; hair care preparations; non-medicated skin care preparations, non-medicated sun care preparations; nail care products, namely, nail varnishes, nail varnish removers; nail care preparations; artificial nails and adhesives therefor; glues, adhesives, acrylic, and silk and linen wraps for the repair of artificial nails, nail polishes; powder compacts; lipsticks; lip gloss; nail</p>		

	<p>varnish remover; cotton wool balls for use in removing and applying cosmetics; make-up powder and foundation; facial wipes impregnated with cosmetics; skin moisturisers; beauty creams; beauty gels; body care cosmetics, essential oils for personal use; antiperspirants; after shave lotions; eau de cologne; soaps; Make up removing preparations; non-medicated toiletries; eau de toilette; deodorants for personal care; hair lotions, hair creams, and hair conditioners; shampoos; beauty masks; skin cream, facial masks, cosmetic oils, face powder, and body scrubs; hand and body lotions; dentifrices; shaving preparations, dyes for hairs; bath preparations, namely, beads, crystals, foam, gels, oil and powder; scented body sprays; after-shave lotions; pre-electric shaving preparations</p> <p>Class 014. First use:</p> <p>Jewelery and imitation jewelery; precious metals and their alloys; bracelets of precious metal; fancy keyrings of precious metals; jewelry boxes of precious metal; key chains of precious metal; ornaments of precious metal; semi-precious and precious stones; watches, clocks, and structural parts therefor</p> <p>Class 035. First use:</p> <p>Retail shops featuring cosmetics and jewelry; computerized online retail ordering services featuring cosmetics and jewelry; shop at home services featuring cosmetics and jewelry; mail order catalog services featuring cosmetics and jewelry; business consultancy services; business advisory services; advertising services; advertising services provided over the internet; rental of advertising space on a website</p>
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Attachments	<p>73031575#TMSN.gif (1 page)(bytes)</p> <p>73585970#TMSN.gif (1 page)(bytes)</p> <p>73717555#TMSN.gif (1 page)(bytes)</p> <p>74162592#TMSN.gif (1 page)(bytes)</p> <p>74164928#TMSN.gif (1 page)(bytes)</p> <p>75976776#TMSN.gif (1 page)(bytes)</p> <p>75045561#TMSN.gif (1 page)(bytes)</p> <p>76307727#TMSN.gif (1 page)(bytes)</p> <p>75982307#TMSN.gif (1 page)(bytes)</p> <p>76107264#TMSN.gif (1 page)(bytes)</p> <p>76107265#TMSN.gif (1 page)(bytes)</p> <p>74581589#TMSN.gif (1 page)(bytes)</p> <p>76301009#TMSN.gif (1 page)(bytes)</p> <p>76301011#TMSN.gif (1 page)(bytes)</p> <p>75983348#TMSN.gif (1 page)(bytes)</p> <p>76495269#TMSN.gif (1 page)(bytes)</p> <p>75353068#TMSN.gif (1 page)(bytes)</p> <p>76301267#TMSN.gif (1 page)(bytes)</p> <p>76977724#TMSN.gif (1 page)(bytes)</p> <p>78543655#TMSN.jpeg (1 page)(bytes)</p> <p>75873148#TMSN.gif (1 page)(bytes)</p> <p>78977515#TMSN.jpeg (1 page)(bytes)</p> <p>78638117#TMSN.jpeg (1 page)(bytes)</p> <p>78639850#TMSN.jpeg (1 page)(bytes)</p> <p>76400178#TMSN.gif (1 page)(bytes)</p> <p>78978133#TMSN.jpeg (1 page)(bytes)</p> <p>76373019#TMSN.gif (1 page)(bytes)</p> <p>76373020#TMSN.gif (1 page)(bytes)</p> <p>77237167#TMSN.jpeg (1 page)(bytes)</p> <p>77237172#TMSN.jpeg (1 page)(bytes)</p> <p>78535247#TMSN.jpeg (1 page)(bytes)</p> <p>76400176#TMSN.gif (1 page)(bytes)</p> <p>78980678#TMSN.jpeg (1 page)(bytes)</p> <p>78908751#TMSN.jpeg (1 page)(bytes)</p>
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/vjbd/
Name	Victoria J. B. Doyle
Date	02/24/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No.
77/730,895 published in the Official Gazette
on October 27, 2009, at page TM 714.

VIRGIN ENTERPRISES LIMITED,

Opposer,

v.

BATTLE BORN GAMING, INC.,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

VIRGIN ENTERPRISES LIMITED (“VEL” or “Opposer”), a company organized and existing under the laws of England and Wales with its principal place of business at The School House, 50 Brook Green, London, W6 7RR, England, believes that it would be damaged by the registration of VIRGIN SACRIFICE CHERRY shown in Application Serial No. 77/730,895 as a trademark for “Powders used in the preparation of isotonic sports drinks and sports beverages; Sports drinks” in International Class 32, and hereby opposes the same.

As grounds of opposition, it is alleged that:

COUNT I

1. Commencing at a time long prior to Applicant’s filing date, Opposer and related companies (collectively, the “Virgin Group”) have operated numerous worldwide businesses under the trade name, trademark, and service mark VIRGIN. A description of Virgin Group company operations appears at the Internet web site associated with the domain name www.virgin.com. In the year ending December 31, 2006, Virgin Group companies employed

more than 50,000 staff in twenty-nine (29) countries and had worldwide sales revenues in excess of U.S. \$20 billion.

2. Commencing at a time long prior to Applicant's filing date, Opposer has used the VIRGIN mark in association with a broad range of goods and services offered in United States commerce including airline and travel-related services, retail store services, vodka, wine, water, non-alcoholic beverages, restaurant and café services, clothing, toys, clocks, books, bags, records, CDs, videos, cosmetics, consumer electronics, online information services, telecommunications products and services, and entertainment, financial and health-related services.

3. VEL's licensee, Virgin Atlantic Airways Ltd. ("VAA"), has provided VIRGIN and VIRGIN ATLANTIC air travel, air freight, courier, cargo, and related services in U.S. commerce continuously since 1984. A description of VAA operations appears at the web site associated with the domain name www.virgin-atlantic.com. VAA operates a fleet of Boeing 747 and Airbus A300 and A340 aircraft providing daily departures to and from New York (JFK) and New Jersey (Newark), Boston, Washington, D.C., Orlando, Miami, Las Vegas, Los Angeles, and San Francisco. VAA serves food and drinks to its passengers, and offers diverse VIRGIN-branded goods including VIRGIN vodka, VIRGIN non-alcoholic beverages, VIRGIN T-shirts, VIRGIN sweatshirts, VIRGIN hats, VIRGIN wallets, VIRGIN toys, VIRGIN clocks, VIRGIN pens, VIRGIN playing cards, and other VIRGIN-branded merchandise.

4. VEL's licensee, Virgin America Inc. ("VAI"), has provided VIRGIN-branded air travel and related services in U.S. commerce continuously since August 2007. A description of VAI operations appears at the web site associated with the domain name www.virginamerica.com. VAI operates commercial aircraft providing daily departures to and

from New York (JFK), Boston, Washington D.C., Las Vegas, San Diego, Los Angeles, Orange County, San Francisco, and Seattle.

5. VEL, through its licensees, has provided a range of VIRGIN-branded soft drinks in United States commerce continuously since 1994.

6. VEL's licensee, Virgin Vines, has provided VIRGIN-branded wine products in United States commerce continuously since September 2005. A description of Virgin Vines operations appears at the web site associated with the domain name www.virginvines.com.

7. VEL's licensee, Virgin Limousines (California) LLC ("VLC"), has offered VIRGIN-branded car and limousine services in U.S. commerce continuously since 1996. VIRGIN LIMO car and transportation services, including personal driving tours, are used annually by tens of thousands of passengers. A description of VLC operations appears at the web site associated with the domain name <http://www.virginlimo.com/>.

8. VEL's licensee, Virgin Mobile USA, LLC ("VMU"), has offered VIRGIN and VIRGIN MOBILE wireless telecommunications products and services in U.S. commerce continuously since June 2002. VMU currently provides VIRGIN and VIRGIN MOBILE wireless services to more than five million subscribers located in more than 4,000 cities and communities located throughout the United States. A description of VMU operations appears at the Internet web site associated with the domain name www.virginmobileusa.com. VMU also offers VIRGIN MOBILE FESTIVAL entertainment services in United States commerce. A description of VIRGIN MOBILE FESTIVAL entertainment services appear at the Internet web site associated with the domain name <http://www.virginmobilefestival.com>.

9. VEL's licensee, Virgin Books Limited ("VBL"), has provided VIRGIN-branded books and guides in U.S. commerce continuously since at least as early as 2001. A description

of VBL operations appears at the web site associated with the domain name www.virginbooksusa.com.

10. VEL's licensee, Virgin Money Ltd., has provided VIRGIN-branded credit card services in United States commerce continuously since 2002.

11. VEL's licensee, Virgin Money USA, Inc., has provided VIRGIN-branded financial services in United States commerce continuously since 2007. A description of Virgin Money operations appears at the web site associated with the domain name <http://www.virginmoneyus.com/>.

12. VEL's licensee, Virgin Healthmiles, Inc., has provided VIRGIN-branded health-related services in United States commerce continuously since 2005. A description of Virgin Healthmiles operations appears at the web site associated with the domain name <https://www.virginhealthmiles.com/>.

13. VEL's licensee, Virgin Health Bank, has provided VIRGIN-branded umbilical cord blood storage services in United States commerce since 2007. A description of Virgin Health Bank operations appears at the website associated with the domain name www.virginhealthbank.com.

14. VEL's licensee's affiliate, HDS Retail North America ("HDS"), has provided VIRGIN-branded retail store services in the United States since 2002. VIRGIN retail stores distribute a broad range of goods including magazines, books, gifts, apparel, travel accessories, and phone cards. Among these goods are VIRGIN-branded goods including apparel. VIRGIN retail stores prominently feature the VIRGIN mark on store signage.

15. Opposer is the owner of numerous registrations of trademark and service marks that constitute or comprise the word VIRGIN, including the following:

- (1) U.S. Reg. No. 1,039,574 for VIRGIN (stylized) for "sound records in the form of discs and tapes and cassettes for use therewith";

- (2) U.S. Reg. No. 1,413,664 for VIRGIN for “air travel services”;
- (3) U.S. Reg. No. 1,469,618 for VIRGIN for “pre-recorded audio and/or video tapes, cassettes and cartridges; pre-recorded audio and video discs, phonograph records”;
- (4) U.S. Reg. No. 1,517,801 for VIRGIN (stylized) for “Pre-recorded audio and video discs, phonograph records; photographic and cinematographic films”;
- (5) U.S. Reg. No. 1,591,952 for VIRGIN (stylized) for “printed sheet music; fictional and non-fictional books, biography and autobiography books, periodicals, namely, paperback books all dealing with music, films and entertainment; paper for packaging, paper cases; writing instruments, namely, pens, pencils, ball point pens, stationery and office supplies, namely, writing and note paper, playing cards” and “articles of outer clothing, namely, shirts, t-shirts, sweat shirts, jackets, hats, clothing caps, clothing belts”;
- (6) U.S. Reg. No. 1,597,386 for VIRGIN for “printed sheet music; mounted photographs; posters, fictional and non-fictional books, biography and autobiography books, periodicals, namely, journals, paperback books all dealing with music, films and entertainment; paper for packaging, paper cases; stationery and office supplies, playing cards” and “belts, articles of outer clothing, namely, shirts, t-shirts, sweat shirts, jackets, hats, clothing caps, clothing belts”;
- (7) U.S. Reg. No. 1,851,817 for VIRGIN for “transportation of goods and passengers by road and air, freight transportation services; travel agency services”; and “bars; retail store services in the fields of cameras, records, audio and video tapes, computers and electronic apparatus, and watches, sheet music, books and photography, handbags, purses, luggage and leather goods, clothing, games, video game machines and video game cartridges”;
- (8) U.S. Reg. No. 1,852,776 for VIRGIN (stylized) for “dissemination of advertising materials for others; preparing advertising, promotions, and public relations materials for others; business organization promotional consulting for others; demonstration of the goods and services of others and promotion thereof; promoting and advertising the goods and services of others by airships and air balloons; outdoor advertising such as by billboards; and distribution of advertising, promotional materials and sample materials of others”; “transportation of goods and passengers by road, air freight transportation services” and “bars; rental of food service equipment; namely, vending machines; portrait and aerial photography; typesetting and printing services; and retail store services in the fields of cameras, records, audio and video tapes, computers and electronic apparatus; and watches; sheet music, books and photography; handbags,

purses, luggage and leather goods; clothing; games, video game machines and video game cartridges”;

- (9) U.S. Reg. No. 1,863,353 for VIRGIN MEGASTORE for “retail department store services”;
- (10) U.S. Reg. No. 2,151,589 for VIRGIN VODKA for “vodka”;
- (11) U.S. Reg. No. 2,237,092 for VIRGIN VACATIONS for “arranging the transport of passengers by air and road, arranging and conducting travel tours, travel agency services, namely, making reservations and bookings for transportation, and transportation reservation services” and “arranging the transport of passengers by air and road, arranging and conducting travel tours, travel agency services, namely, making reservations and bookings for transportation, and transportation reservation services”;
- (12) U.S. Reg. No. 2,586,162 for VIRGIN for “articles of luggage, namely, suitcases; bags; namely, back packs, rucksacks, school bags, school satchels, traveling bags, sports bags, all purpose sports bags for campers and climbers, textile shopping bags; wallets; umbrellas and parasols”;
- (13) U.S. Reg. No. 2,600,080 for VIRGIN (stylized) for “non-alcoholic beverages, namely, soft drinks”;
- (14) U.S. Reg. No. 2,622,510 for VIRGIN (stylized) for “underwriting life, health and general insurance; funds investment; investment of funds for others; open and close-ended funds investment; financial analysis and consultation in the field of securities, personal equity and tax advantaged savings”;
- (15) U.S. Reg. No. 2,625,455 for VIRGIN for “providing an on-line shopping mall via a global computer network; providing business information via a global computer network” and “computerized communication services, namely, electronic mail services, and providing networks for the purpose of transmission and reception of electronic mail, computer generated music, news and other data and information; and broadcasting services by radio and over a global computer network of a wide variety of programs, namely, current events, economics, politics, sports, entertainment, the arts and business”;
- (16) U.S. Reg. No. 2,639,079 for VIRGIN HOLIDAYS for “transportation of passengers and goods by road, rail and air; arranging of package holidays; arranging and organizing tours; arranging visits to places of interest; tourist office services; travel agency services, namely, making reservations and bookings for transportation; transportation reservation services” and “travel agency services, namely, making reservations and bookings for temporary lodging”;

- (17) U.S. Reg. No. 2,643,644 for VIRGIN VIE (stylized) for “non-medicated toilet preparations, namely, lotions and moisturizers; non-medicated preparations for the care of the skin, hands, scalp and body, namely, moisturizers, lotions, creams and gels; non-medicated skin cleansing preparations, namely, lotions, creams and gels; creams and lotions for the skin”;
- (18) U.S. Reg. No. 2,675,758 for VIRGIN for “articles of luggage, namely, garment bags; trunks, namely, beach bags, hunters’ game bags, handbags; mesh shopping bags and leather or leather imitation shopping bags, sling bags for carrying infants; briefcases; purses; walking sticks” and “gloves”;
- (19) U.S. Reg. No. 2,689,097 for VIRGIN (stylized) for “mobile telephones; telephones; modems; batteries; battery chargers; cigarette lighter adapters; dashboard mounts; hands-free headsets; carrying cases; belt clips” and “telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; pager services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the internet”;
- (20) U.S. Reg. No. 2,689,098 for VIRGIN for “mobile telephones; telephones; modems; batteries; battery chargers; cigarette lighter adapters; dashboard mounts; hands-free headsets; carrying cases; belt clips” and “telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; pager services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the internet”;
- (21) U.S. Reg. No. 2,709,578 for VIRGIN (stylized) for “sound records of music in the form of discs pre-recorded audio and video discs, phonograph records featuring music; graphical interface to aid the delivery of interactive products and services by cable or wireless transmission; parts for the aforesaid goods; computer game software”; “water, namely, mineral waters, aerated waters and flavored waters; non-alcoholic beverages, namely, fruit flavored drinks” and “spirits, namely vodka”;
- (22) U.S. Reg. No. 2,717,644 for VIRGIN for “non-alcoholic beverages, namely, soft drinks”;
- (23) U.S. Reg. No. 2,770,775 for VIRGIN MOBILE for “mobile telephones, telephones and modems, and accessories therefor, namely, batteries; battery chargers; cigarette lighter adapters; hands-free headsets; carrying cases and belt clips”; “providing directory information via telephone” and “telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; pager services; electronic mail

services; transmission or broadcast of news and information for others via telephone, including the internet”;

- (24) U.S. Reg. No. 2,770,776 for VIRGIN MOBILE (stylized) for “mobile telephones, telephones and modems, and accessories therefor, namely, batteries; battery chargers; cigarette lighter adapters; hands-free headsets; carrying cases and belt clips”; “providing directory information via telephone” and “telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; pager services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the internet”;
- (25) U.S. Reg. No. 2,798,130 for VIRGIN (stylized) for “playing cards, writing instruments, namely, pens, pencils and ball point pens”; “luggage”; “leisurewear, namely, fleece tops and shirts; articles of outer clothing, namely T-shirts, sweat shirts, jackets, hats, clothing caps”; “sporting articles, namely, golf tees”; “preparing advertising, promotions, and public relations materials for others; demonstration of the goods of others and the promotion thereof; and distribution and dissemination of advertising, promotional materials and sample materials of others”; “electronic transmission and display of information for business or domestic purposes from a computer stored data bank” and “retail store services in the fields of records, audio and video tapes, computers and electronic apparatus and watches, books, luggage and leather goods, clothing, games, video game cartridges, and cafes”;
- (26) U.S. Reg. No. 2,808,270 for VIRGIN ATLANTIC for “transportation of and arranging transportation of goods and passengers by road and air; freight transportation services by air; transportation of human beings by means of land vehicles; chauffeur services; travel agency services, namely, making reservations and bookings for transportation; arranging and/or conducting travel tours; operation of aircraft for others”;
- (27) U.S. Reg. No. 2,818,572 for VIRGIN VIE for “soaps; shampoos; toilet waters; essential oils for personal use; shaving preparations; after-shave lotions; shaving foams; non-medicated toilet preparations, namely, soaps, shampoos, conditioners, non-medicated bath salts and bath oils; anti-perspirants, deodorants for use on the person; depilatories; dentifrices; mouthwashes; cosmetics, namely, foundation creams and lotions, face powders, blusher, lipsticks, lip gloss, and eye make-up; suntanning and sunscreening preparations; non-medicated preparations for the care of the skins hands, scalp and body, namely, toners, exfoliators, scrubs, soaps, nail care preparations namely, shampoos, conditioners, lotions, styling gels, mousse, oils, sprays, hair coloring and decolorant preparations; dyes for the hair and permanent waving and curling preparations; non-medicated skin cleansing preparations namely, cleansers, exfoliators, scrubs, soaps and toners; talcum powders; nail varnish removers; nail care

preparations; artificial nails and adhesives therefor; glues, adhesives, acrylic, and silk and linen wraps for the repair of artificial nails; artificial eyelashes and adhesives therefor”;

- (28) U.S. Reg. No. 2,870,028 for VIRGIN XTRAS for “mobile telephones; computer software downloadable from the Internet for transmission, reception and storage of voice, data, images, e-mail and digital information” and “telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the internet”;
- (29) U.S. Reg. No. 3,009,266 for VIRGIN (stylized) for “operation of leisure centers, namely, providing cosmetic and body care services”;
- (30) U.S. Reg. No. 3,100,295 for VIRGIN XL for “mobile telephones; computer software downloadable from the Internet for transmission, reception and storage of voice, data, images, e-mail and digital information” and “telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the internet”;
- (31) U.S. Reg. No. 3,174,388 for VIRGIN for “soaps; shampoos; non-medicated toilet preparations, namely, soaps, shampoos, lotions, and moisturizers; antiperspirants; deodorants for use on the person; cosmetics, namely, foundation creams and lotions; non-medicated preparations for the care of the skin, hands, scalp and body, namely, moisturizers, lotions, creams, soaps, gels; hair care preparations, namely, shampoos; non-medicated skin cleansing preparations, namely, cleansers, lotions, creams, soaps; creams and lotions for the skin”;
- (32) U.S. Reg. No. 3,188,282 for VIRGIN for “alcoholic beverages, namely, vodka and wine”;
- (33) U.S. Reg. No. 3,209,714 for VIRGIN (stylized) for “entertainment services, namely, providing online computer games”;
- (34) U.S. Reg. No. 3,209,716 for VIRGIN for “entertainment services, namely, providing online computer games”;
- (35) U.S. Reg. No. 3,230,095 for VIRGIN (stylized) for “organizing cultural activities and events; operation of leisure centers, namely, providing library and Internet access facilities”;
- (36) U.S. Reg. No. 3,245,593 for VIRGIN (stylized) for “alcoholic beverages, namely, vodka and wine”;

- (37) U.S. Reg. No. 3,298,420 for VIRGIN for “business incentive services, namely, offering plans to employers including motivational schemes, gift certificates and other rewards for employees, management of incentive programs, events and schemes for others” and “debit card services”;
- (38) U.S. Reg. No. 3,298,421 for VIRGIN (stylized) for “business incentive services, namely, offering plans to employers including motivational schemes, gift certificates and other rewards for employees, management of incentive programs, events and schemes for others” and “debit card services”;
- (39) U.S. Reg. No. 3,398,247 for VIRGIN for “banking services; loan services, namely, offering loans to others; credit card services; consumer financing; electronic funds transfer”;
- (40) U.S. Reg. No. 3,398,248 for VIRGIN (stylized) for “banking services; loan services, namely, offering loans to others; credit card services; consumer financing; electronic funds transfer”;
- (41) U.S. Reg. No. 3,472,228 for VIRGIN UNITE for “developing promotional campaigns for business; promoting public awareness of the need for businesses to have a positive impact on the communities and environment in which they operate and work together with the social sector to drive long term social change including making investments in emerging markets to accelerate positive social change through economic development; charitable services, namely, organizing and coordinating programs for the sick, people with health problems or issues, the homeless, drug users, those with disabilities, victims of abuse, those who are bereaved, children in need or at risk, those with sexual problems, and underprivileged communities, and organizing and conducting volunteer programs and community service projects; business management and administration services in connection with a charity”; “charitable fund raising; charitable financial services for those in need, namely, accepting and administering monetary charitable contributions; financial sponsorship of fund raising events and events designed to raise the profile of charitable and social issues”; and “educational services, namely, conducting summits, conferences, lectures and seminars in the field of social change and charitable and social issues; training services in the field of social change and charitable and social issues; organizing community sporting and cultural events; educational services, namely, providing classes, lectures, seminars, workshops, and discussion groups in the fields of sickness, health problems, homelessness, drug use, disabilities, abuse, bereavement, children's needs, sexual problems, and poverty to young people, people with health problems or issues, the homeless, drug users, those with disabilities, victims of abuse, those who have been bereaved, children in need or at risk, those with sexual problems, and underprivileged communities; charitable services, namely, academic

mentoring of children from underprivileged communities and young people”;

- (42) U.S. Reg. No. 3,427,241 for VIRGIN for “organizing sporting and cultural activities and events; operation of leisure centers, namely, providing library facilities” and “operation of leisure centers, namely, providing cosmetic and body care services”;
- (43) U.S. Reg. No. 3,535,624 for VIRGIN GALACTIC for “travel agency services, namely, making reservations and bookings for transportation, space travel agency services; namely, booking of transportation into space”;
- (44) U.S. Reg. No. 3,538,900 for VIRGIN FESTIVAL for “arranging and conducting live musical performances and music festivals”;
- (45) U.S. Reg. No. 3,538,901 for VIRGIN (stylized) for “arranging and conducting live musical performances and music festivals”;
- (46) U.S. Reg. No. 3,541,731 for VIRGIN AMERICA for “air transportation; freight transportation services by means of air, ship, truck, and rail; airport passenger and baggage check-in services; airport services, namely, ticketing and boarding services; travel services, namely, booking seating arrangements for airline passengers; air transportation services featuring frequent flyer miles as a bonus program for frequent air travelers; providing flight arrival and departure information; and transportation reservation services” and “onboard in-flight entertainment services, namely, distributing movies, TV programs, and audio programs, and providing temporary use of video games, software and personal monitors for viewing the same”; and
- (47) U.S. Reg. No. 3,707,308 for VIRGIN VIE AT HOME for “Perfumes, cosmetics, make up; hair care preparations; non-medicated skin care preparations, non-medicated sun care preparations; nail care products, namely, nail varnishes, nail varnish removers; nail care preparations; artificial nails and adhesives therefor; glues, adhesives, acrylic, and silk and linen wraps for the repair of artificial nails, nail polishes; powder compacts; lipsticks; lip gloss; nail varnish remover; cotton wool balls for use in removing and applying cosmetics; make-up powder and foundation; facial wipes impregnated with cosmetics; skin moisturisers; beauty creams; beauty gels; body care cosmetics, essential oils for personal use; antiperspirants; after shave lotions; eau de cologne; soaps; Make up removing preparations; non-medicated toiletries; eau de toilette; deodorants for personal care; hair lotions, hair creams, and hair conditioners; shampoos; beauty masks; skin cream, facial masks, cosmetic oils, face powder, and body scrubs; hand and body lotions; dentifrices; shaving preparations, dyes for hairs; bath preparations, namely, beads, crystals, foam, gels, oil and powder; scented body sprays; after-shave

lotions; pre-electric shaving preparations”; “Jewelery and imitation jewelery; precious metals and their alloys; bracelets of precious metal; fancy keyrings of precious metals; jewelry boxes of precious metal; key chains of precious metal; ornaments of precious metal; semi-precious and precious stones; watches, clocks, and structural parts therefor”; and “Retail shops featuring cosmetics and jewelry; computerized online retail ordering services featuring cosmetics and jewelry; shop at home services featuring cosmetics and jewelry; mail order catalog services featuring cosmetics and jewelry; business consultancy services; business advisory services; advertising services; advertising services provided over the internet; rental of advertising space on a website.”

16. By reason of more than thirty (30) years of continuous and substantially exclusive use, as well as Virgin Group companies’ expenditure of tens of millions of dollars in advertising and promotion, Opposer’s VIRGIN mark was well known and famous prior to Applicant’s filing date of May 6, 2009, and symbolized extensive goodwill identifying Virgin Group companies and their founder, Sir Richard C.N. Branson. Interbrand in 1997 identified VIRGIN as one of The World’s Top 100 Brands, ranking it in a tie with CANON, and just below KLEENEX. In July 2003, the Court of Appeals for the Second Circuit held that VIRGIN was a “famous, arbitrary, and distinctive mark.” Virgin Enters. Ltd. v. Nawab, 335 F.3d 141, 146 (2d Cir. 2003).

17. On May 6, 2009, long after Opposer had commenced use of VIRGIN in association with diverse businesses, goods, and services in United States commerce, Applicant filed U.S. Application Serial No. 77/730,895 (based on an intent to use) seeking registration of VIRGIN SACRIFICE CHERRY as a purported trademark for “Powders used in the preparation of isotonic sports drinks and sports beverages; Sports drinks” in International Class 32.

18. The designation VIRGIN SACRIFICE CHERRY so resembles VEL’s prior VIRGIN trade names and marks as to be likely, when used in connection with drinks goods, to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Opposer or as to the origin, sponsorship, or approval of Applicant’s goods by Opposer.

19. Opposer believes that it would be damaged by the registration sought herein by Applicant because such registration would support and assist Applicant in the confusing and misleading use of Applicant's designation sought to be registered, and would give color of exclusive statutory rights in Applicant in violation and derogation of the prior superior rights of Opposer.

COUNT II

20. Paragraphs 1 through 19, above, are realleged and incorporated by reference as if set forth in full.

21. Applicant's use of VIRGIN SACRIFICE CHERRY is likely to dilute the distinctive quality of VEL's VIRGIN marks under Section 43(c) of the federal Trademark Act, 15 U.S.C. §1125(c).

22. Opposer believes that it would be damaged by the registration sought herein by Applicant because such registration would support and assist Applicant in diluting the distinctiveness of Opposer's VIRGIN marks and would give color of exclusive statutory rights in Applicant in violation and derogation of the prior superior rights of Opposer.

WHEREFORE, Opposer prays for judgment that Application Serial No. 77/730,895 be denied and that registration of VIRGIN SACRIFICE CHERRY to Applicant be refused.

Please recognize as attorneys for Opposer in this proceeding James W. Dabney and Victoria J. B. Doyle (members of the Bar of the State of New York), and the law firm of Fried, Frank, Harris, Shriver & Jacobson LLP, One New York Plaza, New York, New York 10004. Please address all communications to Victoria J. B. Doyle, Esq. at the above address.

Respectfully submitted,

Dated: February 24, 2010

By: /s/ James W. Dabney
James W. Dabney
Victoria J. B. Doyle

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7605327

CERTIFICATE OF SERVICE

I certify under penalty of perjury pursuant to 28 U.S.C. § 1746 that on the 24th day of February, 2010, I caused to be served on the following, by First Class Mail, postage prepaid, a true copy of the foregoing Notice of Opposition:

IRA DAVID
MORISHITA LAW FIRM, LLC
8960 W TROPICANA AVE STE 300
LAS VEGAS, NV 89147-8161

_____/Catherine Sparacio/
Catherine Sparacio